

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE: Bair Hugger Forced Air Warming
Products Liability Litigation

MDL No. 15-2666 (JNE/FLN)

This Document Relates to:

Graves v. 3M Company, et al
Case No. 17-cv-02747

PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS

COMES NOW, Plaintiff Elizabeth Graves, appearing through undersigned counsel, who hereby files her Response to Motion to Dismiss filed by Defendants (Rec. Doc. 1030) set for hearing at the status conference scheduled for January 18, 2018. In response to the Motion to Dismiss for failure to comply with Pretrial Order No. 14, plaintiff responds as follows:

1. On July 11, 2017, Plaintiff Elizabeth Graves, through undersigned counsel, filed a Short Form Complaint in this MDL on behalf of herself individually and on behalf of the estate of her deceased husband, Michael Graves, alleging infection and injuries caused by the Bair Hugger Forced Air Warming blanket used during her husband's hip replacement surgery.
2. At the time of filing, undersigned counsel was in contact with plaintiff Elizabeth Graves and provided her a Plaintiff Fact Sheet with instructions to complete the forms and return for submission to defendants.
3. In July 2017, Plaintiff Elizabeth Graves informed the undersigned that she had not yet completed the Plaintiff Fact Sheet due to her work schedule and dealing with her husband's estate. She also informed counsel she was debating whether to proceed with the litigation since her husband passed away.

4. Since the filing of her complaint, the undersigned counsel has unsuccessfully attempted to reach plaintiff by telephone at least fourteen times to follow up on the status of her outstanding Plaintiff Fact Sheet.
5. The undersigned has additionally sent correspondence via certified mail notifying plaintiff of her obligation to provide a substantially complete Plaintiff Fact Sheet or face potential dismissal of her case with prejudice.
6. The undersigned counsel has not received any response from plaintiff to explain the ongoing delay in providing a substantially complete Plaintiff Fact Sheet or authorize a stipulated dismissal of her case.
7. As a result, undersigned counsel files this Response to Defendant's Motion to Dismiss documenting efforts to reach plaintiff to obtain a substantially completed Plaintiff Fact Sheet.

This 11th day of January, 2018.

Respectfully submitted,

/s/ Wesley G. Barr

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CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of January, 2018, I electronically filed the foregoing pleading with the Clerk of Court using the CM/ECF system which will send notice of electronic filing to all counsel of record.

/s/ Wesley G. Barr

Wesley G. Barr